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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,329	11/14/2001	Samuel G. Fletcher	T9320.B	3555

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EXAMINER	
MARMOR II, CHARLES ALAN	
ART UNIT	PAPER NUMBER
3736	5

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/991,329	FLETCHER, SAMUEL G.	
	Examin r	Art Unit	
	Charles A. Marmor, II	3736	

-- The MAILING DATE of this communication appears on the cover sh et with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-129 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-129 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-33 and 125-129, drawn to a method for providing speech therapy using model representations of a position contact between a model tongue and mouth during speech, classified in class 434, subclass 185.

II. Claims 34-51 and 87-98, drawn to a method for assessing the proficiency of speech of a speaker by measuring palatometric parameters of a speaker and comparing the measured parameters to a standard, classified in class 600, subclass 590.

III. Claims 52-86, drawn to a method for assessing speech for speech therapy by instructing a user to contact a target in the user's mouth and collecting measurements of the contact made by the user's tongue, classified in class 600, subclass 590.

IV. Claims 99-109, drawn to a method for assessing speech for speech therapy by instructing a user to speak an utterance, electronically detecting the oral movements and detecting the acoustics of the user's voice, classified in class 704, subclass 200.

V. Claims 110-116, drawn to a method for providing speech therapy by instructing a learner to perform a lingual movement and displaying a representation of the

position of contact between the tongue and the mouth of the learner during the movement, classified in class 600, subclass 590.

VI. Claims 117-124, drawn to a method of using a user's tongue to operate a device having electronic controls, classified in class 600, subclass 590.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. Invention I is directed to methods using model representations of a position contact between a model tongue and mouth during speech in order to provide speech therapy, whereas Invention II is directed to methods that measure palatometric parameters of a speaker and compare the measured parameters to a standard in order to assess the proficiency of speech of a speaker.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. Invention I is directed to methods using model representations of a position contact between a model tongue and mouth

during speech in order to provide speech therapy, whereas Invention III is directed to a method where a user is instructed to contact a target in the user's mouth while measurements of the contact made by the user's tongue are collected in order to assess the user's speech for speech therapy.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions I and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. Invention I is directed to methods using model representations of a position contact between a model tongue and mouth during speech in order to provide speech therapy, whereas Invention IV is directed to a method where a user is instructed to speak an utterance, the oral movements of the user are electronically detected, and the acoustics of the user's voice are detected in order to assess speech for speech therapy.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions I and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different

inventions have different modes of operation. Invention I is directed to methods using model representations of a position contact between a model tongue and mouth during speech in order to provide speech therapy, whereas Invention V is directed to a method where a learner is instructed to perform a lingual movement and a representation of the position of contact between the tongue and the mouth of the learner during the movement is displayed in order to provide speech therapy.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions I and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation. Invention I is directed to methods using model representations of a position contact between a model tongue and mouth during speech in order to provide speech therapy, whereas Invention VI is directed to a method of using a user's tongue to operate a device having electronic controls.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group VI, restriction for examination purposes as indicated is proper.

Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different

inventions have different modes of operation and different functions. Invention II is directed to methods that measure palatometric parameters of a speaker and compare the measured parameters to a standard in order to assess the proficiency of speech of a speaker, whereas Invention III is directed to a method where a user is instructed to contact a target in the user's mouth while measurements of the contact made by the user's tongue are collected in order to assess the user's speech for speech therapy.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions II and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. Invention II is directed to methods that measure palatometric parameters of a speaker and compare the measured parameters to a standard in order to assess the proficiency of speech of a speaker, whereas Invention IV is directed to a method where a user is instructed to speak an utterance, the oral movements of the user are electronically detected, and the acoustics of the user's voice are detected in order to assess speech for speech therapy.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions II and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. Invention II is directed to methods that measure palatometric parameters of a speaker and compare the measured parameters to a standard in order to assess the proficiency of speech of a speaker, whereas Invention V is directed to a method where a learner is instructed to perform a lingual movement and a representation of the position of contact between the tongue and the mouth of the learner during the movement is displayed in order to provide speech therapy.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions II and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. Invention II is directed to methods that measure palatometric parameters of a speaker and compare the measured parameters to a standard in order to assess the proficiency of speech of a speaker, whereas Invention VI is directed to a method of using a user's tongue to operate a device having electronic controls.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group VI, restriction for examination purposes as indicated is proper.

Inventions III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation. Invention III is directed to a method where a user is instructed to contact a target in the user's mouth while measurements of the contact made by the user's tongue are collected in order to assess the user's speech for speech therapy, whereas Invention IV is directed to a method where a user is instructed to speak an utterance, the oral movements of the user are electronically detected, and the acoustics of the user's voice are detected in order to assess speech for speech therapy.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions III and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. Invention III is directed to a method where a user is instructed to contact a target in the user's mouth while measurements of the contact made by the user's tongue are collected in order to assess the user's speech for speech therapy, whereas Invention V is directed to a method where a learner is instructed to

perform a lingual movement and a representation of the position of contact between the tongue and the mouth of the learner during the movement is displayed in order to provide speech therapy.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions III and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. Invention III is directed to a method where a user is instructed to contact a target in the user's mouth while measurements of the contact made by the user's tongue are collected in order to assess the user's speech for speech therapy, whereas Invention VI is directed to a method of using a user's tongue to operate a device having electronic controls.

Because these inventions are distinct for the reasons given above and the search required for Group III is not required for Group VI, restriction for examination purposes as indicated is proper.

Inventions IV and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. Invention IV is directed to a method where a user is instructed to speak an utterance, the oral movements of the user are

electronically detected, and the acoustics of the user's voice are detected in order to assess speech for speech therapy, whereas Invention V is directed to a method where a learner is instructed to perform a lingual movement and a representation of the position of contact between the tongue and the mouth of the learner during the movement is displayed in order to provide speech therapy.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Inventions IV and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation and different functions. Invention IV is directed to a method where a user is instructed to speak an utterance, the oral movements of the user are electronically detected, and the acoustics of the user's voice are detected in order to assess speech for speech therapy, whereas Invention VI is directed to a method of using a user's tongue to operate a device having electronic controls.

Because these inventions are distinct for the reasons given above and the search required for Group IV is not required for Group VI, restriction for examination purposes as indicated is proper.

Inventions V and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different

inventions have different modes of operation and different functions. Invention V is directed to a method where a learner is instructed to perform a lingual movement and a representation of the position of contact between the tongue and the mouth of the learner during the movement is displayed in order to provide speech therapy, whereas Invention VI is directed to a method of using a user's tongue to operate a device having electronic controls.

Because these inventions are distinct for the reasons given above and the search required for Group V is not required for Group VI, restriction for examination purposes as indicated is proper.

3. A telephone call was made to Karl R. Cannon on March 3, 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Marmor, II whose telephone number is (703) 305-3521. The examiner can normally be reached on M-TH (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mary Beth Jones can be reached on (703) 308-3400. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Charles A. Marmor, II
Primary Examiner
Art Unit 3736

cam
March 3, 2004